

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

Midwestern Gas Transmission Company

Docket Nos. RP00-467-002,
RP00-467-003 and RP01-19-002

SECOND ORDER ON COMPLIANCE WITH ORDER NOS. 637, 587-G and 587-L

(Issued June 5, 2003)

1. On February 19, 2003, Midwestern Gas Transmission Company (Midwestern) filed tariff sheets in compliance with the Commission's Order on Compliance with Order Nos. 637, 587-G and 587-L issued on December 19, 2002.¹ On March 18, 2003, Midwestern filed additional tariff sheets in compliance with the December 19, 2002, order (December 19 Order). The tariff sheets to be accepted are listed in the Appendix to this order. Midwestern requests that the tariff sheets not be made effective until the first day of a calendar month that is at least 90 days after a final Commission order on these tariff sheets. The Commission finds that Midwestern has generally complied with the requirements of the December 19 Order and Order No. 637. Therefore, the proposed tariff sheets in the appendix are accepted effective October 1, 2003, subject to Midwestern filing revised tariff language as discussed below. This order benefits the public by permitting Midwestern to implement policies described in Order No. 637 designed to enhance competition in the natural gas industry.

Background

2. On August 15, 2000, Midwestern filed pro forma tariff sheets in order to comply with Order No. 637, et seq.² On July 5, 2002, Midwestern filed pro forma tariff sheets to

¹101 FERC ¶ 61,310 (2002).

²Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, FERC Stats. & Regs. Regulations

(continued...)

supersede its August 15, 2000 filing. On October 2, 2000, Midwestern submitted a filing in Docket No. RP01-19-000 to comply with Order Nos. 587-G and 587-L. As discussed below, the December 19 Order accepted Midwestern's filings subject to a number of changes.

Public Notice, Interventions and Protests

3. Public Notice of Midwestern's February 19, 2003, compliance filing was issued on February 21, 2003. Interventions and protests were due as provided in Section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2003). As discussed below, ProLiance Energy, LLC (ProLiance) filed a protest to aspects of the compliance filing. No other comments were received. Public Notice of Midwestern's supplemental compliance filing of March 18, 2003, was issued on March 20, 2003. No protests or comments were received with regards to the supplemental compliance filing. The supplemental compliance filing also contains, in part, a response to ProLiance's protest. Although Rule 213 (a)(2)³ of the Commission's Rules of Practice and Procedure generally does not permit answers to protests we will accept the response filed by Midwestern since it will help clarify the issues under consideration in this proceeding.

Discussion

4. The Commission finds that Midwestern has generally complied with the December 19 Order, with one exception. Accordingly the Commission accepts Midwestern's February 19, 2003 filing as revised by its March 18, 2003, filing, subject to conditions. The December 19 Order required Midwestern to revise its original proposal to comply with Order No. 637 with respect to (1) segmentation, (2) flexible point rights, (3) capacity allocation, (4) discount policy, (5) third party imbalance management services, (6) imbalance netting and trading, (7) scheduling priority and penalty revenue crediting, (8) OFOs, and (9) electronic contracting. Below we discuss Midwestern's compliance with the

²(...continued)

Preambles (July 1996-December 2000) ¶ 31,091 (2000) (Feb. 9, 2000) (Order No. 637); order on reh'g, Order No. 637-A, FERC Stats. & Regs, Regulations Preambles (July 1996-December 2000) ¶ 31,099 (2000) (May 19, 2000) (Order No. 637-A); order denying reh'g, Order No. 637-B, 92 FERC ¶ 61,062 (2000) (Order No. 637-B); aff'd in part and remanded in part, Interstate Natural Gas Association of America v. FERC, 285 F.3d 18 (D.C. Cir. Apr. 5, 2002), Order on Remand, 101 FERC ¶ 61,127 (2002).

³18 C.F.R. § 385.213(a)(2) (2003).

December 19 Order requirements concerning segmentation, flexible point rights, and capacity allocation. The remaining matters require no further discussion.

Segmentation

5. The December 19 Order found that Midwestern's proposed tariff provisions concerning segmentation were generally consistent with Order No. 637. However, the Order expressed concern about a proposed tariff provision that segmentation was permitted to the extent it was "operationally feasible." The Commission stated it expected that on a straight-line system like Midwestern's, segmentation would normally be operationally feasible. As a result, the Order required Midwestern to include a provision in its tariff that Midwestern would provide a written explanation for any denial of a party's request for segmentation which Midwestern finds is not operationally feasible. Midwestern has included tariff language in Sections 15.3.1 and 15.3.2 of its GT&C which states that if Midwestern finds that a segmentation proposal is not operationally feasible it will explain why to the nominating party, in writing, at the time the request is rejected. The Commission accepts the additional tariff provision as being in compliance with the Commission's December 19 Order.

6. The Commission also required Midwestern to permit segmentation outside a shipper's primary path as the Commission's policy is to allow shippers to move to any point within the zone for which it has paid. Midwestern's tariff had restricted segmentation to a shipper's transportation path. Midwestern has proposed revised tariff language in Sections 15.3.1, 15.3.2 and 21.11(m) (formerly numbered Section 21.12(m)) of its GT&C which uses the phrase "transportation agreement" in place of "Transportation Path" to remove the location limitations. The Commission accepts this substitute phrase as being in compliance with its December 19 Order.

7. Finally, the Commission found that Midwestern's proposed tariff language improperly restricted a shipper's rights to engage in forwardhaul and backhaul transactions to the same point. Proposed Sections 15.3.1 and 21.12(m) provides that where forwardhaul and backhaul transactions to the same point resulted in deliveries in excess of the contract demand of the underlying contract, the excess service must be provided as authorized overrun service or under a separate interruptible service. The Commission directed Midwestern to file revised tariff language clarifying that its overlap restrictions do not apply to the circumstance of forwardhauls and backhauls to the same point, as long as neither the backwardhaul nor the forwardhaul individually exceed the contract quantity.

8. Midwestern has filed to clarify its tariff language at Sections 15.3.1 and 21.11(m) (formerly numbered Section 21.12(m)), by explaining that overlap restrictions do not apply

to the circumstance where nominations are to the same point, as long as such nominations individually do not exceed the transportation quantity at any pipeline location.

9. ProLiance objects to this aspect of the compliance filing as not being consistent with the Commission's directions. ProLiance states that the proposed tariff language in Section 21.11(m) indicates that in the event that the combined quantities nominated by the releasing shipper and the replacement shipper exceed the releasing shipper's original pipeline capacity entitlements, company shall accept nominations for quantities in excess of the original pipeline capacity entitlements in the overlapped portion of its system only where the replacement shipper or releasing shipper, as applicable, has nominated those excess quantities under a separate service such as an authorized overrun or under Rate Schedule IT. ProLiance states that in a similar instance, the Commission rejected Texas Gas Transmission Corporation's request to charge an authorized overrun rate for such deliveries in excess of contract demand and ProLiance requests that Midwestern's proposed requirement of a separate service for excess quantities be rejected.

10. ProLiance is also concerned that Midwestern's proposed revised Section 15.3.1, Segmentation via Nominations, is not adequately explained with respect to a sentence which reads, without explanation: "Nominations at a point location may exceed the Transportation Quantity."

11. In its March 18, 2003, supplemental compliance filing, Midwestern responded to ProLiance's protest. With respect to Section 15.3.1, Midwestern proposes to clarify its proposed tariff language by revising the challenged sentence to read: "Nominations of gas quantities in opposing flow directions to the same point location may overlap at such point to the extent individual nominated gas quantities do not exceed the Transportation Quantity."

12. With respect to ProLiance's concern with Section 21.11(m), Midwestern does not propose any change to its proposed tariff language. Midwestern explains that its tariff language addresses two specific overlap situations that could occur under capacity release, overlaps along the pipeline and overlaps at a point. Overlapping nominations by the releasing and replacement shippers on the pipeline in excess of the pipeline capacity entitlements would be nominated as excess quantities under a separate service such as authorized overrun or under Rate Schedule IT-1 consistent with the Commission's policy in Order No. 637 that overlaps may occur on pipeline segments, but only up to the contract demand of the underlying contract. Therefore, excess quantities above the contract demand due to an overlap on the pipeline, would be charged separately.

13. However, for point overlaps, Midwestern contends, its proposed tariff provision is clear and consistent with Commission policy. Gas quantities nominated by the releasing and replacement shippers in opposite directions that overlap at the same point are allowed

as long as the nominated quantities individually do not exceed the contract quantity. Midwestern states this distinction between pipeline and point overlaps is important to it, since gas physically flows in opposing directions on its pipeline system.

14. The Commission generally accepts Midwestern's proposed tariff revisions discussed above, including the clarifying tariff language proposed in Midwestern's supplemental compliance filing of March 18, 2003. We will deny ProLiance's request to reject a proposed provision of Section 21.11(m) as we are of the opinion that Midwestern's explanation for its proposal is sufficient justification to allow its acceptance here. We will require one revision to the proposed tariff language. The Commission policy is to permit overlapping nominations in segments outside a shipper's primary path so long as the combined nominations of the releasing and replacement shipper do not exceed the mainline contract demand of the underlying contract. Midwestern, in its filing, appears to use pipeline as a term which is synonymous with mainline. The Commission's policy applies only to the mainline. Therefore, Midwestern's proposed tariff language is too broad in this respect. Midwestern is therefore, required to file revised tariff sheets to clarify that the overlap situation only pertains to the mainline.

Flexible Primary Point Rights

15. The December 13 Order approved some aspects of Midwestern's proposal concerning the treatment of primary points. However, the Commission required various parts of the proposal to be modified or clarified.

16. The Commission rejected proposed Section 21.12(n) which the Commission found placed several restrictions on a replacement shipper's ability to obtain primary capacity that was inconsistent with Commission policy. The Commission required Midwestern to revise its tariff to expressly permit replacement shippers in all circumstances to reserve in their contracts primary point capacity, within or outside their paths, up to their mainline contract demand, subject to available capacity. The Commission stated that a replacement shipper should be able to obtain primary point capacity up to its mainline contract demand either within or outside the contract path released to it,⁴ subject to the availability of capacity at

⁴The Commission has allowed pipelines to limit the primary points a shipper can reserve to its mainline contract demand. This balances the interest of releasing and replacement shippers in having flexibility to use the capacity for which they are paying and the interest of the pipeline in retaining sufficient primary point capacity for sale in conjunction with any unsubscribed capacity it is seeking to market. Great Lakes Gas Transmission Limited Partnership, 101 FERC ¶ 61, 206 (2002).

the relevant points and any overlapping primary paths not exceeding the contract demand of the underlying contract between the pipeline and the releasing shipper.

17. Midwestern in its February 19, 2003, compliance filing, proposed to substantially revise Section 21.11(n) and modify Section 15 to comply with the December 19 Order. Midwestern in its March 18, 2003, supplemental compliance filing, proposed additional revisions to Section 21.12(n) (since renumbered as Section 21.11(n)). In addition, Midwestern proposes to revise Section 15.2.2 by deleting a sentence it believes is inconsistent with the Commission's December 19 Order in discussing this aspect of Midwestern's compliance filing.

18. Midwestern now proposes that Section 21.11(n) simply read: "If a Releasing Shipper releases capacity, the Replacement Shipper, is entitled to designate its own primary points on any part of Company's system for which it is paying, consistent with the same conditions applicable to any other firm Shipper on Company's system." The simplification results from both compliance with the December 19 Order and the elimination of various provisions in Section 15, Flexible Point Rights and Segmentation.

19. Midwestern also proposes to delete a sentence from Section 15.2.2 which would serve to preclude a shipper from relocating its primary scheduling rights for as long as Midwestern had available capacity to sell.

20. The Commission's accepts Midwestern's tariff revisions as being in compliance with its December 19 Order.

Mainline Priority at Secondary Points

21. Order No. 637-A required pipelines to afford a higher priority over mainline capacity to shippers using a secondary point within their path than shippers using secondary points outside their path. The Commission found that Midwestern's proposal to comply with the requirement went beyond the scope of the requirements of Order No. 637-A and also was unclear and cumbersome. The December 19 Order found that Midwestern's proposal to revise its scheduling priorities so as to give so called "shipper imbalances" first priority and give nominations with a flow direction opposite to the physical flow direction at the point of constraint second priority goes beyond the requirement to give within-the-path transactions priority over outside-the-path transactions. The Commission also was concerned that Midwestern's proposal did not give firm shippers the highest priority, because of the priority given backhaul volumes. Midwestern was directed to file revised tariff sheets to give within-the-path firm secondary transactions priority over outside-the-path secondary transactions. The Commission did state that one aspect of Midwestern's proposal sought to determine the priority level of secondary transactions based on whether the nomination is moving through a pipeline constraint. The Commission noted it had approved such a

provision in Tennessee Gas Pipeline Company (99 FERC ¶ 61,017 (2002)) and permitted Midwestern to model its revised proposal as the proposal accepted in that case. Midwestern proposed to determine the priority level of a firm shipper's secondary transaction based on whether the nomination is moving through a capacity constraint.

22. Midwestern has proposed substantial changes to its tariff with respect to its Capacity Allocation and Confirmation Process to address the Commission's concerns. Midwestern has proposed to revise Section 3.7 of its GT&C to allow a higher priority over pipeline capacity to shippers seeking to use a secondary point within their path than shippers seeking to use pipeline capacity outside of their path and to recognize that capacity allocations are dependant upon the location of a constraint.

23. Specifically, the proposed tariff would allocate capacity to the validated nominations at the constrained pipeline location in the following order: (1) firm nomination quantities with a flow direction in the opposite direction as the physical flow direction at a constrained pipeline location; and (2) firm nomination quantities with a flow direction in the same direction as the physical flow direction at a constrained pipeline location. If requested, Midwestern will prioritize nominations within this class as follows: (a) primary scheduling rights firm nominations; (b) secondary-in-path firm nominations; and (c) secondary out-of-path firm nominations. Allocation of point capacity would, if required, then be allocated to interruptible nominations, based upon rate and if the rate were the same, the capacity would be allocated pro rata. Finally, if required, point capacity would be allocated to authorized overrun nominations based upon rate and if the rate were the same, the capacity would be allocated pro rata.

24. The Commission generally accepts Midwestern's proposal as being in compliance with the Commission's December 19 Order. Its proposal to make capacity allocation dependant on the location of the constraint is consistent with our holding in Tennessee, *supra*.

The Commission orders:

Midwestern's revised tariff sheets listed in the Appendix are accepted to be effective October 1, 2003, subject to Midwestern making the tariff revisions discussed above within 30 days of the date of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Appendix
Midwestern Gas Transmission Company
FERC Gas Tariff, Third Revised Volume No. 1
Tariff Sheets to be effective October 1, 2003

Second Revised Sheet No. 1	Second Revised Sheet No. 229
First Revised Sheet No. 6	Second Revised Sheet No. 230
First Revised Sheet No. 50	First Revised Sheet No. 230B
First Revised Sheet No. 51	Original Sheet No. 230C
First Revised Sheet No. 61	First Revised Sheet No. 238
Second Revised Sheet No. 81	First Revised Sheet No. 239
Original Sheet No. 82	First Revised Sheet No. 240
Sheet Nos. 83-89	First Revised Sheet No. 241
First Revised Sheet No. 90	Second Revised Sheet No. 246
Original Sheet No. 90A	Substitute Original Sheet No. 246A
First Revised Sheet No. 91	Substitute Original Sheet No. 246B
Original Sheet No. 91A	Original Sheet No. 246C
First Revised Sheet No. 92	First Revised Sheet No. 257
First Revised Sheet No. 94	First Revised Sheet No. 258
First Revised Sheet No. 95	Third Revised Sheet No. 262
Second Revised Sheet No. 100	First Revised Sheet No. 262.01
Original Sheet No. 100A	Second Revised Sheet No. 263
First Revised Sheet No. 101	Second Revised Sheet No. 264
First Revised Sheet No. 102	First Revised Sheet No. 265
First Revised Sheet No. 103	First Revised Sheet No. 266
First Revised Sheet No. 104	Original Sheet No. 266A
Second Revised Sheet No. 110	Substitute Original Sheet No. 266B
Second Revised Sheet No. 111	Second Revised Sheet No. 269
First Revised Sheet No. 200	First Revised Sheet No. 270
Second Revised Sheet No. 201	Fifth Revised Sheet No. 273
Second Revised Sheet No. 203	First Revised Sheet No. 400
Fourth Revised Sheet No. 204	Second Revised Sheet No. 401
Original Sheet No. 204A	First Revised Sheet No. 403
First Revised Sheet No. 205	Second Revised Sheet No. 410
Fourth Revised Sheet No. 206	First Revised Sheet No. 416A
First Revised Sheet No. 207	Original Sheet No. 510
First Revised Sheet No. 226	Original Sheet No. 511
Second Revised Sheet No. 227	Original Sheet No. 512
Second Revised Sheet No. 228	
Original Sheet No. 228A	
Original Sheet No. 228B	

Midwestern Gas Transmission Company

FERC Gas Tariff, Third Revised Volume No. 1

Tariff Sheets to be rejected as moot

Original Sheet No. 246A

Original Sheet No. 246B

Original Sheet No. 266B